IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.8089 OF 2005

Baburav Changu Patil & Ors. .. Applicants

Versus

State of Maharashtra .. Respondent

Mr.Shreekant V. Gavand for applicants

Mr.S.S.Pednekar, A.P.P. for State.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 14th December 2005.

P.C.

. Mr.Gavand presses this application with regard to applicant Nos. 1 to 3 i.e. Baburav Changu Patil, Machhindra Rama Patil and Sunil

Bhaga Phadke. He does not press this application as far as rest of the applicants are concenred. However, this shall not prevent the remaining accused/ applicants from applying for bail before regular Court. All contentions in that behalf are expressly kept open.

2. Applicant Nos. 1 to 3 are arrayed as accused in C.R.No.422 of 2005 registered with Panvel Town Police Station for offences punishable under section 143, 147 to 149, 324, 326 of I.P.C. pertaining to an alleged assault at the local temple where disputes arose as to who should conduct Harinam Saptah. Mr.Gavand states that applicant Nos. 1 to 3 have not been involved in the assault although allegations appear to be that they were carrying some weapon. Considering that they were not responsible for the assault and further they had themselves gone to the police station on 30th November 2005 and offered to surrender, this is a fit case where

their application should be considered favourably.

3. Upon a perusal of F.I.R. and the letter dated 30th November 2005, it is clear that applicant Nos. 1 to 3 were present at site but from the statement of complainant, it does not appear that they have assaulted him with stick. They have no antecedents and considering that one of them is about 55 years of age they deserve to be enlarged on bail in the event of their arrest in connection with the subject C.R. Hence following order:-

i) In the event of arrest of applicant Nos. 1 to 3 i.e. Baburav Changu Patil, Machhindra Rama Patil and Sunil Bhaga Phadake in connection with C.R.No.422 of 2005 registered with Panvel Town Police station, they shall be released on bail in the sum of

Rs.10,000/- each with one or two sureties in the like amount.

ii) Applicants shall not enter Vithoba Rakhumai temple premises from 25th December 2005 to 30th December 2005.

iii) Applicants shall attend Panvel Town Police Station as and when summoned.

iv) Bail is granted subject to condition that the applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of accusation against them so as to dissuade him from disclosing such facts to the Court or to the police officer/ investigating agency. Applicants shall not tamper with the prosecution evidence.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of the case at the time of trial.

vi) This order will enure to the benefit of the applicant only till charge sheet is filed. Thereafter, they will be free to apply to the appropriate court for appropriate relief.

vii) Application is disposed of in above terms.

viii) Parties to act on an authenticated copy of this order.

. Application having been dismissed as withdrawn in sofar as applicant Nos.4, 5 and 6 i.e. Santosh Baburav Patil, Vishnu Bhaga Patil

and Bhaga Janu Phakade are concerned, the only request made by Mr.Gavand is that time may be granted to applicant Nos. 4 to 6 to surrender. Mr.Gavand states that these accused would surrender before the Panvel Town Police station by 19th December 2005. Needless to state that if they fail to do so, it would be open for prosecution to take such steps as are permissible in law. This statement of Mr.Gavand is made after taking instructions from applicants.

(S.C.DHARMADHIKARI, J)